

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter

Telephone Number Portability

CC Docket No. 95-116

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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PETITION FOR RECONSIDERATION

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SUMMARY

SBC urges that the Commission reconsider certain aspects of its First Report and Order. Specifically, SBC supports and incorporates by reference the Petition for Reconsideration filed by Pacific Telesis Group (the "PTG Petition"). The PTG Petition clarifies the functionality and benefits of "query on release" ("QOR"). The cost savings resulting from the implementation of a local routing number methodology ("LRN") with a QOR option, rather than LRN alone, are substantial, and in SBC's case exceed \$72 million for the top 100 MSAs and \$122 million for ubiquitous deployment in its five-state territory. The Commission should also acknowledge that LRN with QOR is an appropriate technology for the implementation of number portability.

In addition, the Commission's determination that its cost recovery principles for currently available number portability measures must comply with the statutory cost recovery requirements set out in Section 251(e)(2) of the 1996 Act for number portability is incorrect. While it is correct to state that the 1996 Act requires that costs to establish "number portability" be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission, this requirement cannot be extended to "currently available," or interim, number portability. The Commission should leave interim number portability rates to negotiations.

Further, the Commission should defer any consideration of non-geographic number portability. The 1996 Act defines number portability as "the ability of users of telecommunications services to retain, at the same location, existing communications numbers . . . when switching from one telecommunications carrier to another" (emphasis added). Because non-geographic numbers are, by definition, not associated with the "same location," they are not subject to the 1996 Act's portability requirement. In addition, any action the Commission takes with regard to non-geographic numbers must be evenhanded.

In the First Report and Order, the Commission established a deployment schedule for number portability within the top 100 MSAs which is very aggressive and may not provide sufficient time for all operational support systems to be upgraded to provide number portability. Because the Commission should expect these types of problems, it should establish flexible guidelines so that number portability can be deployed in the most effective and efficient manner. The Commission should rule that location portability will not be considered until after the initial implementation of number portability in the first 100 MSAs are successfully deployed.

Further, before location portability is implemented, the Commission should initiate a proceeding to address issues regarding location portability, including the geographic area to be covered and cost recovery. There must be some degree of definition and uniformity, or the potentially varied location portability systems will not be compatible.

The Commission should also reconsider its decision to limit the Wireless Bureau's delegated authority to stay the implementation date for a period not to exceed nine months. Granting such limited delegated authority creates an unnecessary regulatory hurdle the industry must cross if the resolution of the issues and implementation of the resulting solution requires more than the additional nine months the Wireless Bureau has been delegated to grant.

LRN with QOR, its local exchange company ("LEC") subsidiary, SWBT, will save over \$72 million in costs for its portion of the top 100 MSAs and \$122 million for ubiquitous deployment in its five-state territory.

Neither LRN nor QOR are mature technologies; rather, they are methods in development for providing number portability. For this reason, the additional cost savings data incorporated in this Petition were not previously available for presentation to the Commission. The facts as provided herein could not, through the exercise of ordinary diligence, have been learned, discovered, or developed for inclusion in the last filing in this docket. However, the magnitude of the cost savings is such that the public interest will be served through potentially lower cost recovery requirements and, ultimately, lower overall consumer prices resulting from the implementation of LRN with the QOR enhancement for portability. The Commission should, therefore, acknowledge that LRN with QOR is an appropriate technology for the implementation of number portability.

2. ITEM 4 IN THE COMMISSION'S PERFORMANCE CRITERIA
CANNOT BE MET BY EITHER LRN OR LRN WITH QOR

Item 4 of the Commission's performance criteria,² if read literally, would preclude not only QOR but also any known number portability alternative, including LRN with its N-1 routing criterion, by disallowing reliance on "databases, other network facilities, or services provided by other telecommunications carriers in order to route calls to the proper termination point." Carriers will of necessity rely on the networks of others in order to route calls with any number portability process. Originating calls must all be processed to some extent in the originating LEC network, but must also be processed to

²Report and Order at ¶¶48,53.

some extent on the completing carrier's network. The same situation will exist to some extent with or without LRN database "dips" that will be performed by one carrier in order to route a call to a competing carrier's customer.

Therefore, based on the foregoing information, the Commission must modify its rules to permit the use of the QOR option in the implementation of number portability.

B. THE TELECOMMUNICATIONS ACT OF 1996 PROVIDES A DIFFERENT METHOD OF COST RECOVERY FOR "INTERIM" NUMBER PORTABILITY THAN FOR "PERMANENT" NUMBER PORTABILITY

In the Report and Order, the Commission determines that its cost recovery principles for currently available number portability measures must comply with the statutory cost recovery requirements set out in Section 251(e)(2) of the 1996 Act for number portability.³ While it is correct to state that the 1996 Act requires that costs to establish "number portability" be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission, this requirement was not intended to be extended to interim number portability.⁴ The Commission should leave interim number portability rates to negotiations.

1. "INTERIM" NUMBER PORTABILITY IS A SECTION 271 CHECKLIST ITEM, TO BE DISTINGUISHED FROM THE NUMBER PORTABILITY REQUIREMENT REFERENCED IN SECTION 251

The 1996 Act distinguishes between "interim" number portability and "permanent" number portability. These terms correspond to the Commission's use of "currently

³Report and Order at ¶125.

⁴Section 251(e)(2).

available number portability” such as remote call forwarding (“RCF”) and direct inward dialing (“DID”)(herein, “INP”), and “number portability.” Section 3(30) of the 1996 Act defines the permanent solution for number portability as “the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another.” Section 271(c)(2)(B)(xi) permits:

(2) SPECIFIC INTERCONNECTION REQUIREMENTS -

(B) COMPETITIVE CHECKLIST - Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following.

(xi) Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations.

Id.

2. THE 1996 ACT PROVIDES FOR “NUMBER PORTABILITY” COST RECOVERY, BUT LEAVES INP TO NEGOTIATIONS

Although the 1996 Act does not expressly provide either for INP cost recovery or rates, neither does it place the burden of number portability provided, through existing services, upon the incumbent. In conjunction with the interconnection negotiation process, state jurisdictions retain the authority to set rates for interim number portability through

approval of interconnection agreements.⁵

The Commission cites Section 251(e)(2) of the Act as granting it authority to prescribe pricing principles to ensure that the costs of number portability, including INP, are allocated on a “competitively neutral” basis.⁶ In particular, Section 251(e)(2) states:

- (e) NUMBERING ADMINISTRATION -
* * *
- (2) COSTS - The cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.

As its overall purpose, Section 251 defines requirements regarding interconnection arrangements among telecommunications carriers.

However, as set forth above, the 1996 Act does not refer to interim number portability until Section 271. Section 271 (c)(2)(B)(xi) addresses the use of interim telecommunications number portability methods, such as RCF and DID, or other comparable arrangements, until the Commission issues rules pursuant to Section 251 of the 1996 Act (which may extend the use of INP, as necessary, and has been permitted in the Report and Order). Section 271 is silent on the issue of cost recovery for the interim telecommunications number portability measures. Because it is silent, such costs should be recovered consistent with other competitive checklist items--through good faith negotiations among parties.

⁵Section 2(b) of the Communications Act generally leaves authority over intrastate rates in the hands of state commissions. The 1996 Act does not expressly or implicitly preempt the state’s authority to set interim number portability rates.

⁶Report and Order at ¶ 126.

Since passage of the 1996 Act, many ILECs have reached agreements with other carriers enabling them to provide competing local exchange telephone service by interconnecting their facilities with the ILEC network. Included in many of these interconnection agreements are terms and conditions for the recovery of costs for interim number portability measures. As has been seen in negotiations among ILECs and new entrants, the parties have been able to negotiate successfully agreements through which interim number portability is paid for at a part of the mix that results in overall interconnection agreement. While these agreements, many of which predate the Report and Order, may use a cost recovery mechanism different than the criteria specified in the Report and Order, these contracts were negotiated in good faith and represent the willingness of the competing parties to fulfill the intent of Sections 251 and 252 of the 1996 Act. The success of these negotiations shows that the parties recognize that part of the mix in an interconnection agreement is the recovery of the cost of providing INP.

The Report and Order is overly intrusive, thwarts the negotiation process, and is contrary to the intent of Congress as conveyed in Sections 251, 252 and 271 of the Act. Cost recovery for the interim, or currently available measures, must be handled in the manner intended by Congress: through good faith negotiations among parties and not by Commission regulation.

- C. THE COMMISSION SHOULD RECONSIDER WHETHER TO TREAT NON-GEOGRAPHIC NUMBERS IN THIS PROCEEDING
- 1. THE COMMISSION'S APPLICATION OF NUMBER PORTABILITY TO NON-GEOGRAPHIC TELEPHONE NUMBERS IS INCONSISTENT WITH LEGISLATION

The 500 and 900 Numbering Plan Area ("NPA") codes are examples of what are

termed “non-geographic NPAs.” According to the industry agreed-upon definition, “non-geographic NPAs are NPAs that do not correspond to discrete geographic areas, but which are instead assigned for services with attributes, functionalities, or requirements that transcend specific geographic boundaries.”⁷ Because these numbers transcend specific geographic boundaries, the services associated with them can accommodate such dynamic features as time-of-day and day-of-week routing to various locations; that is, the 500 or 900 number, by definition, is not associated with a specific geographic destination point at all times.⁸

The 1996 Act defines number portability as “the ability of users of telecommunications services to retain, at the same location, existing communications numbers . . . when switching from one telecommunications carrier to another” (emphasis added). Because non-geographic numbers are, by definition, not associated with the “same location,” they are not subject to the legislative portability requirement.

2. IF ANY 500/900 NUMBERS ARE MADE PORTABLE, ALL SHOULD BE MADE PORTABLE

In addition, making only LEC 500 and 900 numbers portable is discriminatory. The Commission recognizes that the majority of customers for these services currently belong to the interexchange carriers (“IXCs”). Thus, a LEC could provide a 500 or 900 number to a new customer and that new customer would then have the option of leaving the LEC’s service (with the same 500 or 900 number) for any other provider, including an

⁷ INC 95-0407-007 INC Terminology and Definitions.

⁸Geographic NPAs, on the other hand, are those “NPAs which correspond to discrete geographic areas within World Zone 1.” INC 95-0407-007 INC Terminology and Definitions Numbers within geographic NPAs are associated with specific geographic destination points at all times.

IXC. Conversely, the LEC could not compete for any customer that had acquired service from an IXC unless that customer agreed to change its 500/900 number. As a result, IXCs would be free to approach LECs' customers on any basis, but LECs would not be competitively able to approach IXCs' customers because IXC 500/900 numbers are not proposed to be portable. This cannot possibly meet any Commission definition of fair rules for competition.

**3. THE INC SHOULD NOT BE DELEGATED THE TASK OF
REVIEWING 500/900 PORTABILITY**

The Commission directs the Industry Numbering Committee ("INC") to "file a report with the Commission within twelve months of the effective date of the Report and Order addressing the technical feasibility of requiring LECs to make their assigned 500 and 900 numbers portable, whether it be through modifying the existing toll free database or through another system."⁹ The Commission then states that "Upon receipt of this report, we will take appropriate action under the 1996 Act." This procedure is flawed.

The "technical possibility" of making LEC numbers, but not interexchange carrier numbers, portable should be determinable in twelve months, if the study is performed by a technically oriented committee. However, while "technical feasibility" is only one variable in the equation regarding implementation of 500 and 900 number portability, economics cannot be left out of the equation.

Commenters that supported 500/900 portability based their support on an expectation that the costs of 500/900 portability will be "modest" using the toll free database. These commenters provided no support for that contention. No system

⁹ Report and Order at ¶198.

evaluations were performed to identify the work involved, the hardware and software development and maintenance required, or the ongoing centralized support and administration that would be needed. These items are all elements of the current toll-free database environment. Without an extensive system evaluation, any statement that the cost would be "modest" is premature or unfounded.

The current toll-free database is administered jointly by the seven Regional Bell Operating Companies ("RBOCs") by order of the Commission. To meet this order, the RBOCs formed a management team, the "SMS/800 Management Team" (or "SMT"), that has contracts with a business manager organization (Data Base Services Management, Inc., a Bellcore subsidiary, or "DSMI"), a hardware provider (Southwestern Bell Telephone Company), a software provider (Bellcore), and a help desk service (Lockheed IMS). An interstate access tariff (filed jointly by the RBOCs) sets the rules and regulations for service providers to access the system for reserving and assigning toll-free numbers. Any discussion on expanding the toll-free database structure to include 500 and 900 portability would require formal proposals from each of those suppliers, as well as from DSMI and the SMT, to determine how, or if, their operations can be expanded and at what cost. It is certainly not clear that the answer to the cost magnitude question would be "modest."

4. THE DEVELOPMENT OF A RECORD IS APPROPRIATE

The Commission recognizes that there has been no record developed regarding 500/900 portability. The Report and Order, therefore, only requests that a record regarding technical feasibility be developed. Technical issues, however, are not the only issues requiring a record. The Commission must, at a minimum, allow industry

participants to develop a full record so that a valid long-range view can be developed.

Claims that costs are “modest” or “significant” could be challenged or substantiated. The real needs of the industry and consumers could be understood, and a plan that meets the public interest could be developed.

**D. THE TIME LINE FOR LNP ESTABLISHED BY THE FCC IS
TOO AGGRESSIVE FOR SEVERAL REASONS.**

With number portability, significant changes will be necessary because the NPA-NXX of each number will no longer be used to identify the switch. The structure of the existing base of legacy systems used by the incumbent LECs was designed around the idea that a telephone number has a specific, non-mobile, geographic relationship that exists from the time the number is placed into service until that number is removed from service. Operational Support Systems (“OSSs”) will be required to use a routing number to identify the switch. New field identifiers will have to be developed in the OSSs to accommodate changes in the order processing flow (i.e., new connects, disconnects, tracking of ported numbers, etc.). Put simply, OSSs will require significant network and software changes, as well as changes to methods and administrative procedures.

In the Report and Order, the Commission established a deployment schedule for number portability within the top 100 MSAs apparently based on LRN availability in the switches. This schedule is very aggressive and may not provide sufficient time for all operational support systems to be upgraded to provide number portability. LRN availability in the switches is not the only determining factor of successful LNP deployment. As the Commission is well aware, permanent number portability is a new concept, one which has never been deployed, and must be approached in a manner that

minimizes implementation problems and delays. Unlike switch upgrades, which can be done on an incremental basis, OSS upgrades must be ubiquitously completed by October 1, 1997, when the first MSA in SWBT's service area is deployed. SWBT has already been informed by one vendor that the necessary OSS upgrades will not be available in time to meet the deployment schedule contained in the Order. Thus, manual "work arounds," if they can be done, will be necessary to meet the deployment schedule established by the Commission.

The Commission rules delegate to the Common Carrier Bureau the authority to waive or stay the dates contained in the implementation schedule. Although this waiver process may be helpful, it may not be enough. Without appropriate relief LECs will be required to go into service with OSS "work arounds," which are historically operationally problematic. The Commission must expect these types of implementation problems and should establish flexible guidelines including necessary extensions to the implementation schedule, so that number portability can be deployed to meet the intent of Congress in the most efficient and effective manner.

**E. DEPLOYMENT OF FUTURE LOCATION PORTABILITY
WAS NOT CONTEMPLATED BY THE 1996 ACT**

The 1996 Act did not contemplate the implementation of location portability. Service provider portability should be successfully implemented before location portability is considered. It is not reasonable at this time to add an additional layer of complexity to an already complex number portability scenario when one phase has not yet been successfully implemented. The Commission should rule that location portability will not be considered at least until after the implementation of number portability in the first 100

MSAs is successfully deployed.

Further, as part of the consideration of location portability, the Commission should initiate a proceeding to address such issues as the geographic area to be covered (i.e., by MSA, by NPA, by state, other) and cost recovery. As with service provider portability, there must be some degree of definition and uniformity, or the various location portability systems will not be interoperable.

**F. THE COMMISSION SHOULD MODIFY ITS ADMINISTRATION OF
THE DEPLOYMENT SCHEDULE FOR CMRS NUMBER
PORTABILITY**

The implementation schedule for CMRS number portability presents the wireless industry with a very formidable task. As the Commission recognizes, the CMRS industry must develop standards and protocols and overcome the technical burdens unique to the provision of seamless roaming.¹⁰ The choice of June 30, 1999, as the date by which all affected CMRS carriers are required to offer service provider portability throughout their networks, including the ability to support roaming, appears to be a choice based more on a need to set a specific deadline rather than a choice based on any actual evidence of the ability of the industry to meet such a deadline. The unique problems facing CMRS providers are concerns that must be resolved at an industry level--not on a local or regional level. Given the amount of work that must be done by the industry, including the development of various standards and protocols, in addition to the revamping of the current roaming processes, the Chief of the Wireless Telecommunications Bureau ("WTB") should be delegated authority to monitor the progress of the industry.¹¹ As the

¹⁰Report and Order at ¶¶ 162, 166.

¹¹ Report and Order at ¶¶ 166-167.

Commission recognizes, the resolution of the standards issues unique to CMRS, particularly roaming, are critical to the implementation of CMRS number portability.¹²

The importance of the issues to all CMRS carriers seemingly assures wide industry participation in resolving the issues. The simple fact remains, however, that the deadline for all CMRS providers to have technology, based on still-to-be-developed protocols, standards and processes, deployed and working live, is less than 36 months away. The Chief of the WTB, therefore, should also be delegated the authority to waive or stay any of the dates in the CMRS implementation schedule if necessary to ensure the efficient development of number portability. As noted, the WTB will be monitoring the industry efforts to resolve the various issues, will be aware of the solutions reached, and most importantly, will be aware of whatever time is needed to implement and test such solutions.

The Commission should also reconsider, however, its decision to limit such delegated authority to staying the implementation date for a period not to exceed nine months. Granting such limited delegated authority merely creates an unnecessary regulatory hurdle the industry must cross if the resolution of the issues and implementation of the resulting solution requires more than the additional nine months the WTB has been delegated to grant. If the efficient development and implementation of CMRS number portability, including the roaming solution, is going to require an additional 13 months, the WTB will be in the best position, given its monitoring efforts, to make such a decision and grant such an extension. Any opposing views will have an opportunity to convince the

¹² Report and Order at ¶166.

WTB that such an extension is not required.

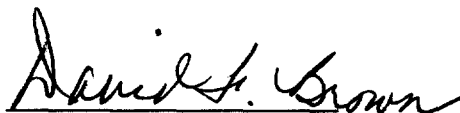
Placing a limit on the WTB's ability in 1999 to grant an extension to a deployment schedule created in 1996 is itself inefficient. If the WTB is convinced in late 1998 or early 1999 that efficient deployment of number portability in the CMRS environment will require an additional 15 months rather than nine months, it should have the ability to grant such an extension. The WTB's ability to grant a stay should not be limited to current view of nine months.

G. CONCLUSION

SBC respectfully requests that the Commission reconsider the Report and Order in accordance with the arguments set forth above.

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